



# UK Councils Against Fluoridation

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**To the Health Oversight and Scrutiny Committee, and Members of the Council  
31st August 2011**

**Dear Councillors,**

**Implications for Councils of the provisions on water fluoridation in the government's 'Health and Social Care Bill', due for consideration by Parliament this month..**

The Health and Social Care Bill currently before Parliament raises a number of political issues that have extremely serious implications for your Council Members, and we urge your Council to consider new provisions under the Bill that pose extremely serious challenges to the protection of the public and the future finances of the council.

The government has indicated that it has allocated only two days to debate the 450+ page Bill, which will almost certainly now be passed 'on the nod'. However, if your Council agrees to endorse the responsibilities that government aims to impose on it, then it will be placed in an extremely dangerous legal position. We have briefly summarised some of these below for your urgent attention.

**The inclusion of water fluoridation in the Health and Social Care Bill**

Although this enormous document contains almost no detailed provisions for specific health care issues, the section on water fluoridation is a remarkable exception. For this one relatively minor public health measure alone the Bill goes into extraordinary detail, and you may wish to consider why such emphasis has been placed on a discredited 'public health' measure. Only two months ago the European Community's *Scientific Committee on Health and Environmental Risk (SCHER)* condemned fluoridation as '*A crude measure of systemic fluoride treatment . . . without a detectable threshold for dental and bone damage.*<sup>1</sup>

Please ask your Council to pause and ask why the BDA would recommend a practice that, if it were as successful as it claims, would put many of its members out of business? This Trade Union of the dental sector is unstinting in its efforts to preserve its members' monopoly on the lucrative business of cosmetic dental treatment that fluoridation generates through its often devastating effects on the appearance of the many people who suffer from dental fluorosis as a direct result of this practice.

The lobbyists for vested commercial interests in the dental sector have manipulated this Bill to protect their own interests. This is revealed by the absurdly unbalanced emphasis on what is in fact a very small, and totally discredited, part of the health sectors repertoire. The lobbyists have succeeded in convincing a gullible Parliament that the state of our children's teeth is of greater concern than other more urgent needs. In fact, our children's teeth have never been better, except for one part of the country where they are getting worse - the long-fluoridated West Midlands!

It is clear that during the preparation of this Bill the pro-fluoridation dental lobby has been extremely active in insisting that this controversial activity must be retained as a permanent element of the reformed NHS's policy. It sets a dangerous legal precedent designed to allow the State to employ mass medication in pursuit of its political objectives in health care, and potentially opens the door to future more extreme abuse.

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<sup>1</sup> Scientific Committee on Health and Environmental Risks (May 2011). Critical review of any new evidence on the hazard profile, health effects, and human exposure to fluoride and the fluoridating agents of drinking water. [http://ec.europa.eu/health/scientific\\_committees/environmental\\_risks/docs/scher\\_o\\_139.pdf](http://ec.europa.eu/health/scientific_committees/environmental_risks/docs/scher_o_139.pdf) (Accessed 31 August 2011)

### **Removing Councils' independence in health care decisions.**

The Bill itself, at over 450 pages, is extremely detailed and often obscure. However, the Equality Impact Assessment (EIA) published by the Department of Health provides a more readable source of information on its social implications, and is of more direct concern for Councillors.<sup>2</sup>

As your Members will be aware, the government's obsession with this practice is reflected in the unstinting support of the Directors of Public Health of the Strategic Health Authorities and Primary Care Trusts. Under this new Bill, your Council will now be forced to take one or more of these dedicated advocates of fluoridation under its wing, ensuring that this policy remains prominently before your Members. The Dept of Health has stated that *The Department's current policy is that the existing PCT DsPH would transfer to local authorities... The responsibilities that PCTs currently have for local health improvement will transfer to local authorities, who will employ the Director of Public Health, jointly appointed with the Public Health Service.(F23 / F43)*

The propaganda so prevalent in this debate escapes briefly in the EIA when it once again makes the scientifically discredited claim *'Fluoridation can significantly reduce inequalities in oral health between affluent and less affluent areas...'* In their new employment with the Councils the former Directors of Public Health in the NHS will undoubtedly exercise considerable pressures on Councils to endorse this disreputable practice.

Section F97 of the EIA reveals that the Secretary of State will have the power *'to specify particular public health services that local authorities must provide, to ensure their national availability'* (emphasis added - 'must' means that the specified policy will be compulsory). Your Council will therefore be forced to endorse government health policies, and that will include the compulsory fluoridation of your water supplies. You will be required to comply with the national policy, regardless of any apparent room for inconvenient public consultation. Indeed, the Bill only requires Councils to consult with the Secretary of State and Water Companies, as statutory Consultees for all new schemes.

### **Scale of the health damage caused by fluoridation, and consequential liability.**

If this Bill is passed, then your Council will become 'responsible' for fluoridation proposals and consultation. But with responsibility comes liability, and your Council needs to be under no illusion about the damage that this practice will inevitably cause to your children. There is now overwhelming scientific evidence that fluoridation causes approximately one child in eight to develop a disfiguring condition known as *'dental fluorosis of aesthetic concern'*<sup>3</sup> everywhere that it is practised. So common is excessive environmental exposure to fluoride now that in many countries even more children are affected to this extent. Every year the prevalence of this condition increases.

So damaging is this condition that the victims experience social rejection at school and discrimination in employment. If they do pay the dental profession to conceal the damage caused by that profession's own endorsement of the practice - commonly at least £30,000 for a lifetime of this treatment - they then face financial hardship that is especially oppressive to those already from underprivileged sectors of society. Fluoridation does not reduce social inequalities, it increases them.

And as participants - even if unwillingly - in this travesty of 'public health', your Council will bear the brunt of public outrage. Those of your Members who are able to retain their seats will, in around five years time, face the inevitable flood of legal actions from residents seeking compensation for the damage that will begin to appear amongst the children who are nominally under your protection.

### **Violation of law.**

For those children with this condition, this form of mass medication is indisputably degrading treatment, and is rejected by all codes of medical ethics and human rights. It is in flagrant violation of both English law and of Article 3 of the European Convention on Human Rights. Your Members will undoubtedly be astonished to learn that the promotion of fluoridated water as being able to prevent dental decay is actually prohibited under English law.

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<sup>2</sup> Dept of Health, London, UK, 2011. Equality Impact Assessments (EIAs) for the Health and Social Care Bill, 2011 <http://www.parliament.uk/documents/impact-assessments/IA11-003.pdf> (Accessed 31 August 2011)

<sup>3</sup> McDonagh et al, 2000. A Systematic Review of Public Water Fluoridation, Centre for Reviews and Dissemination, University of York. <http://www.york.ac.uk/inst/crd/fluores.htm> accessed 15 December 2008

It is a criminal offence to recommend, promote or endorse any product for the prevention of a disease if it does not have a medicinal marketing authorisation from the regulatory Quango of medicines, the MHRA.. Yet Councilors and the public have been subjected to an avalanche of illegal government-sanctioned propaganda claiming that fluoridation is both safe and effective. Such claims are absolutely prohibited in English law, whether fluoridated water is regarded as a food (the Food Safety Act and all legislation dealing with minerals in foods) or a medicine (the Medicines Act).

Please be under no illusion about this - any health professional who publicly endorse the alleged properties of fluoridated water for the prevention of the disease of tooth decay commits a serious criminal offence. They are also acting in defiance of the NHS's own Code of Good Medical Practice, that assures patients of their right to refuse medication. The Code warns that the use of such products, even with full patient consent, renders them personally liable for all damage that may result.

If your Council permits the government to drag it into this controversial arena, it will be regarded as an accessory in a conspiracy to procure a criminal act against your own general public.

#### **The application of medicinal law /to fluoridated water.**

You may ask why, if it is illegal to promote fluoridated water in this fashion, the regulatory authorities have not charged any individual with this offence? The astonishing answer is that the MHRA refuses to recognise that the fluoride employed in this form of mass medication of the public as actually a medicine! So whenever your Council is assured that fluoridated water is not a medicine, you are being deliberately misinformed by the health authorities and the regulator of medicines - to put it bluntly, they lie.

In 1983 in the Court of Session in Edinburgh, Lord Jauncey ruled '*I am satisfied that fluoride, in whatever form it is ultimately purchased by the respondent,*' is a medicinal product under the definition included in the Medicines Act 1968<sup>4</sup>. That ruling applies both in Scotland and in England. Also, a ruling by the European Court of Justice in 2005<sup>5</sup> made it clear that where there is doubt whether a product is a food or a medicine, if any medical claim is made for it then it is solely subject to medicinal law, which takes precedence.

This has the remarkable and, for every single one of your local food manufacturing, processing and catering businesses, devastating implication that their product must first be awarded a medicinal licence before it can be sold, served or even exported! In English law, this ban on the use of illegal source materials for any mineral added to food is reflected in the provisions of the Food Safety Act.

You will therefore appreciate that, in endorsing fluoridation as a compulsory public health activity, this Bill is incompatible with medicinal law. If your electors ever demand that your Council declare why they are permitting your local water supply to be fluoridated, it will inevitably be forced to issue assurances to the public that are prohibited under the medicinal law of England and the EC.

#### **Forcing the public to pay for poisoning of their children.**

We assume that your Members have realised that under the provisions of this Bill they will have to go back cap-in-hand to their electors to ask them to pay for the addition of this poisonous substance to their water supply - the substance that is disfiguring their children? If this Bill becomes law, the Secretary of State will be able to exercise the power to recover the costs of fluoridation from Councils. This will mean that you will have to raise the money for poisoning your children through an increase in Council Tax. You may find that the public has a strong objection to such an insulting demand..

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<sup>4</sup> Jauncey 1983. Lord Jauncey. Opinion of Lord Jauncey in causa Mrs Catherine McColl (A.P) against Strathclyde Regional Council. The Court of Session, Edinburgh, 1983.

<sup>5</sup> HLH Warenvertriebs and Orthica (Joined Cases C-211/03, C-299/03, C-316/03 and C-318/03) European Court of Justice, 9 June 2005

## **The risks**

So, if your Council allows responsibility for fluoridation to be imposed on it under the spurious pretext of its public health function, as has been included in this Bill, then Members should remember that responsibility is always accompanied by liability. Around the world the legal profession is waking up to the host of potential law suits that can be brought before the courts, on the part of both individuals and as Class Actions. Given the solid evidence of harm caused by fluoridation, they will succeed. Here are just a few of the many issues that your Members need to consider.

1. The Council will be forced to collaborate in providing a public health service that will cause many children to experience significant medical harm. It will be responsible for subjecting them to social degradation and exclusion at school and in later life. Such treatment is actionable under medicinal and food law and the national and European Human Rights legislation. The Council will also be subject to civil liability for any damage that may result.
2. It will be seen to endorse the promotion of an unlicensed medicinal product, which is proscribed under the criminal law.
3. Your Trading Standards Officers will be forced to acknowledge the new rules, and disregard their obligation to enforce the prohibition on the use of medicinal products in the preparation of food for human consumption.
4. The Council and its Members will discover that the largest insurer of Councils in the UK, and the International Underwriters Association itself will not indemnify them against any claims arising from the 'foreseeable risks' associated with fluoridation.
5. The Personal Public Indemnity Insurance of any health professional employed of the Council will be liable to cancellation, leaving them personally liable for any judgment brought against them for unprofessional action..

## **The remedy**

The repeated dismissal by the Health sector of the requirement for fluoridated water to be subject to regulation under the Medicines Act is at the key factor that permits this continued evasion of the medicinal law that prohibits this practice. It is essential that the incompatibility of all fluoridation law in England with the European and English law on the regulation and supply of medicinal products be subjected to Judicial Review.

This will confirm the mandatory requirement for licensing this product, so your Members should take particular note of the SCHER group's admission that, if any application for such a license were to be made within the EC, it would never be granted. A successful ruling by the Court would force the Government to withdraw fluoridation as a public health intervention, and would entirely remove all potential risk to, and liability of, your Council from their enforced involvement in this illegal form of mass medication..

We urge your Members to seek clarification of the questionable legitimacy of this practice through Judicial Review. A successful challenge would cost your Council far less than the eventual costs of criminal and civil judgments against it should it bow to the pressure to implement this hazardous and disreputable practice.

Liz Vaughan, Founder and Director of UKCAF Ltd.  
Douglas Cross, BSc, CBiol, EurPrBiol, FSB, Director UK CAF Ltd

## **Who we are**

UK Councils Against Fluoridation was founded in 1988 as North West Councils Against Fluoridation, with the collaboration of the Council of Barrow in Furness. It is now a national association of approximately 74 Local Authorities in England and Northern Ireland, all of whom have a formal policy against the addition of fluoridating chemicals to public drinking water. The Scottish Minister for Health has also recently confirmed her support for our opposition to this practice. We provide our Associate Councils with analyses of the public health and legal implications of fluoridation, through reviews and articles published on our web site, [www.ukcaf.org](http://www.ukcaf.org)